

**JUL 10 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON  
U.S. COURT OF APPEALS**

OLEG MOROZOV,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 01-70713

INS No. A78-252-007

ORDER\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted January 17, 2003  
San Francisco, California

Before: SCHROEDER, Chief Judge, NOONAN and CLIFTON, Circuit Judges.

Petitioner Oleg Morozov appeals the denial by the Board of Immigration Appeal's (the Board) denial of his petition for asylum and withholding of deportation and for withholding of removal under the Convention Against Torture. Morozov argues he was persecuted in the Ukraine on account of his political beliefs and that

---

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

he was tortured as defined by the Convention Against Torture (CAT). 8 C.F.R. §208.16(c)(1). The Board found Morozov to be credible, so his statements are taken as true. *Leiva-Montalvo v. I.N.S.*, 173 F.3d 749, 750 (9th Cir. 1999).

The Board failed to address Morozov's harsh imprisonment by the government as a type of torture triggering the application of CAT. It was the Board's responsibility to rule on this claim as set out in Morozov's testimony. Accordingly, Morozov's petition is GRANTED and the case is REMANDED to the Board of Immigration Appeals for decision in accordance with this order.